

4/17/01 JRB  
28

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

BRADFORD JOHNSON,

Plaintiff

v.

SGT. JOSE RODRIGUEZ, et al .,

Defendants

CIVIL ACTION NO. 1:CV-00-0675

(Judge Rambo)

(Magistrate Judge Blewitt)

FILED  
SCRANTON

APR 17 2001

REPORT AND RECOMMENDATION

PER

DEPUTY CLERK

Plaintiff, an inmate at the State Correctional Institution at Rockview, filed this action pursuant to 42 U.S.C. § 1983 on April 12, 2000. Plaintiff is proceeding *pro se*.

On March 14, 2001, the Court entered an Order which directed Plaintiff to file a brief in opposition to Defendants' Motion for Summary Judgment by April 3, 2001. Said Order further stated that Plaintiff's failure to timely file a brief in opposition would result in the issuance of a report and recommendation that the action be dismissed for failure to prosecute. (Doc. 27).

The time in which Plaintiff was to have filed the brief in opposition has expired. The Plaintiff has neither filed the brief nor requested an extension of time in which to do so.

Federal Rule of Civil Procedure 41(b) allows for the dismissal of an action for "failure of the plaintiff to prosecute or comply with these rules or order of court, . . ." (emphasis added). In the instant case, Plaintiff has failed to both prosecute the action and to comply with an order of the

court by his failure to file a brief in opposition to Defendants' motion for summary judgment as directed.

Based on the foregoing, it is respectfully recommended that the complaint be dismissed on the basis of Plaintiffs failure to timely file a brief in opposition to Defendants' motion for summary judgment and for failure to comply with an order of the court.



THOMAS M. BLEWITT  
United States Magistrate Judge

Dated: April 17, 2001

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

BRADFORD JOHNSON,	:	CIVIL NO. 1:CV-00-0675
	:	
Plaintiff	:	
	:	(Judge Rambo)
v.	:	
	:	(Magistrate Judge Blewitt)
SGT. JOSE RODRIGUEZ, et al.,	:	
	:	
Defendants	:	

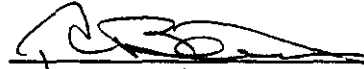
**NOTICE**

**NOTICE IS HEREBY GIVEN** that the undersigned has entered the foregoing  
**Report and Recommendation** dated April 12, 2001.

Any party may obtain a review of the Report and Recommendation pursuant to  
Rule 72.3, which provides:

Any party may object to a magistrate judge's proposed findings, recommendations or report addressing a motion or matter described in 28 U.S.C. § 636 (b)(1)(B) or making a recommendation for the disposition of a prisoner case or a habeas corpus petition within ten (10) days after being served with a copy thereof. Such party shall file with the clerk of court, and serve on the magistrate judge and all parties, written objections which shall specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for such objections. The briefing requirements set forth in Local Rule 72.2 shall apply. A judge shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge, however, need conduct a new hearing only in his or her discretion or where required by law, and may consider the record developed before the

magistrate judge, making his or her own determination on the basis of that record. The judge may also receive further evidence, recall witnesses or recommit the matter to the magistrate judge with instructions.



**THOMAS M. BLEWITT**  
United States Magistrate Judge

Dated: April 17, 2001

UNITED STATES DISTRICT COURT  
FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA

\* \* MAILING CERTIFICATE OF CLERK \* \*

April 17, 2001

Re: 1:00-cv-00675 Johnson v. Rodriguez

True and correct copies of the attached were mailed by the clerk  
to the following:

Bradford Johnson  
Liberty Management  
1007 W. Lehigh Avenue  
Philadelphia, PA 19133

R. Douglas Sherman, Esq.  
Office of Attorney General  
15th Floor  
Strawberry Square  
Harrisburg, PA 17120

cc:		
Judge	( )	( ) Pro Se Law Clerk
Magistrate Judge	( )	( ) INS
U.S. Marshal	( )	( ) Jury Clerk
Probation	( )	
U.S. Attorney	( )	
Atty. for Deft.	( )	
Defendant	( )	
Warden	( )	
Bureau of Prisons	( )	
Ct Reporter	( )	
Ctroom Deputy	( )	
Orig-Security	( )	
Federal Public Defender	( )	
Summons Issued	( )	with N/C attached to complt. and served by: U.S. Marshal ( ) Pltff's Attorney ( )
Standard Order 93-5	( )	
Order to Show Cause	( )	with Petition attached & mailed certified mail to: US Atty Gen ( ) PA Atty Gen ( ) DA of County ( ) Respondents ( )
Bankruptcy Court	( )	
Other	( )	

MARY E. D'ANDREA, Clerk

*JB*  
4/17/01